

Section: Eligibility

Topic: Eligibility Committee

Question 5-01: Who are the required participants on the group of individuals that determines eligibility?

Answer 5-01: Upon completing the administration of tests and other evaluation materials or after determining that additional data are not needed, in accordance with 8 VAC 20-80-54 D, a group of qualified professionals and the parent or parents of the child must determine whether the child is, or continues to be, a child with a disability.

1. The group shall include, but not be limited to, local educational agency personnel representing the disciplines providing assessments, the special education administrator or designee, and the parent or parents.
2. At least one local educational agency representative in the group must have either assessed or observed the child.
3. The group may be an IEP team, as defined in 8 VAC 20-80-62 C as long as the above requirements and notice requirements of 8 VAC 20-80-70 C are met.
4. If determining whether a child suspected of having a specific learning disability is a child with a disability, as defined by this chapter¹, the group shall include:
 - a. The child's regular teacher: (1) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age; or (2) For a child less than school age, an individual qualified to teach a child of that age; and
 - b. At least one person qualified to conduct diagnostic examinations of children, such as school psychologist, speech-language pathologist, teacher of specific learning disabilities or teacher of remedial reading.”

(8 VAC 20-80-56 B)

¹ "Chapter" means the Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Question 5A-01: Are central office participants required?

Answer 5A-01: The special education administrator or designee is required, but that person is not required to be from central office.

Question 5B-01: Are school personnel who conducted the assessment required?

Answer 5B-01: A representative from the disciplines providing the assessments is required. This representative must meet the qualification (i.e., licensure/certification) requirements of that discipline. It may be a different individual than the person who conducted the assessment, although at least one individual present must have assessed or observed the child (8 VAC 20-80-56 B 2).

Question 5C-01: For a Part C (early intervention) child being considered for eligibility under Part B (special education and related services), can a Part C provider be the person who has assessed or observed the child?

Answer 5C-01: No. The eligibility meeting must include at least one local educational agency representative who has either assessed or observed the child (8 VAC 20-80-56 B 2). A Part C provider can be an **additional** person who has assessed or observed the child, but the Part B evaluation procedures shall also be followed.

Question 5D-01: Can a substitute (who does not meet the qualification requirements) or paraprofessional represent the discipline (e.g., psychology, speech-language pathology) on the eligibility committee?

Answer 5D-01: No. The regulations specify that qualified professionals be on the group (8 VAC 20-80-56 B). Neither a substitute who does not meet the qualification requirements nor a paraprofessional meets the federal requirements of qualified personnel. ("Qualified personnel" means personnel who have met Virginia Department of Education approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the individual is providing special education or related services. In addition, the professional must meet other state agency requirements for such professional service and Virginia licensure requirements as designated by Virginia law or regulations" (8 VAC 20-80-10)). Persons who do not meet these requirements may participate as long as appropriately qualified personnel are represented at the eligibility meeting.